

March 1, 2002

Edward Dinan, President & CEO
Verizon New England Inc., d/b/a Verizon Maine
1 Davis Farm Road
Portland, ME 04103

Re: Inquiry Regarding the Entry of Verizon-Maine into the InterLATA
Telephone Market Pursuant to Section 271 of the Telecommunications Act
of 1996, Docket No. 2000-849

Dear Mr. Dinan:

On October 18, 2001, Verizon New England Inc., d/b/a Verizon Maine (Verizon) filed a set of Checklist, Measurements, and OSS Declarations with the Commission and asked that the Commission review the filing for compliance with Section 271 of the Telecommunications Act of 1996 (the "Act").

In response to Verizon's filing, the Commission re-initiated its proceeding to review Verizon's compliance with Section 271 by establishing a procedural schedule which allowed for the filing of declarations and comments by interested parties, the conducting of discovery, and the holding of two days of hearings. Our inquiry was not a formal investigation under Maine law, but it had many of the elements of such a case and afforded all interested parties an opportunity to be heard on this matter. Our review of the record of this proceeding and other related material, indicates that, upon Verizon's assurance that it will comply with the conditions described below, Verizon meets the statutory requirements of Section 271 relating to opening the local exchange and exchange access markets in Maine to competition.

Conditions

1. Verizon will file a wholesale tariff for Maine no later than October 1, 2002. In the interim, CLECs shall be allowed to amend their interconnection agreements with Verizon in such a manner that enables them to negotiate the inclusion of a single UNE (and any terms and conditions related to the single UNE) rather than be required to sign a multi-part or omnibus amendment which contains provisions unrelated to the single UNE.
2. Verizon will implement in Maine as soon as possible a new procedure which will allow CLECs to order interoffice dark fiber consistent with the

outcome of the ordering process trials in Pennsylvania and the Washington, D.C. metropolitan areas. Verizon will attempt to meet a target of approximately 10 business days into the collocation process. On September 3, 2002, Verizon will provide the Commission with a report on the status of the trials and an updated target for Maine implementation.

3. Verizon will provision new EELs in Maine in accordance with applicable law beginning on April 1, 2002.
4. Verizon will make the following changes to the terms and conditions for provisioning dark fiber in Maine:
 - a. If a dark fiber inquiry reveals there is no dark fiber available, Verizon will, upon separate request from a CLEC, provide the CLEC with written documentation and a fiber map within 30 days of the request. The documentation will show the following information:
 - a map (hand-drawn, if necessary) showing the spans along the most direct route and two alternative routes (where available), and indicating which spans have spare fiber, no available fiber, and construction jobs planned for the next year or currently in progress with estimated completion dates;
 - the total number of fiber sheaths and strands between points on the requested routes;
 - the number of strands currently in use or assigned to a pending service order;
 - the number of strands in use by other carriers;
 - the number of strands assigned to maintenance;
 - the number of spare strands; and
 - the number of defective strands.

The CLEC will be billed a non-recurring charge per request for cable documentation to reimburse VZ-Maine for the costs incurred in providing the CLEC with the Documentation. Until the Commission approves a Maine-specific rate for providing this information, Verizon may charge the NH cable documentation rate of \$132.02.

- b. In the event Verizon must perform emergency cable restoration to its facilities, all efforts will be made to restore the CLECs' leased unbundled dark fiber pairs in the same manner as other fibers in the same cable sheath using Verizon's standard restoration procedures.

- c. If an entire ribbon degrades and Verizon-ME would in the ordinary course of business repair the fiber, it shall repair all of the strands in the ribbon, regardless of who uses the individual strands.
 - d. Verizon will file a dark fiber tariff for Maine by May 1, 2002. In the interim, Verizon will provide access to dark fiber to CLECs in Maine consistent with its policy in Rhode Island, as set forth in section 10.2.1(G) of Verizon RI's wholesale tariff, so as to provision continuous dark fiber through one or more intermediate central offices without requiring the CLEC to be collocated at any such offices.
- 5. Verizon will file redacted copies of all customer-specific contracts with the Commission within 30 days of the signing of the contract. The Commission will make these copies available only to CLECs/resellers.
- 6. Verizon will participate in the Rapid Response Process outlined in Attachment A. On or after September 1, 2002, the Commission will evaluate the effectiveness of the Rapid Response Process and whether the process should be codified in the Commission's Rules.
- 7. Verizon shall provide the Commission with a quarterly report which identifies any modifications ordered by the Commissions in any former Bell Atlantic state that substantially alter Verizon's obligations with respect to the checklist items described at the Telecommunications Act Section 271(c)(2)(B) subsections: (i) interconnection and collocation; (ii) access to UNEs; (iv) unbundled loops; (v) unbundled transport; and (xiv) resale. The report should also: (1) indicate whether Verizon will propose the modifications in Maine; (2) the time at which such offering will be made; and/or (3) the reasons why the offering will not be available in Maine.

Performance Assurance Plan

The Commission believes that Verizon's participation in a Performance Assurance Plan (PAP) is necessary to ensure that Verizon continues to meet its Section 271 obligations after entering into the long-distance market. The Commission has reviewed the PAP proposal made by Verizon, the PAPs suggested by Staff and AT&T, and the comments by all the parties relating to the PAP, and determines that the New York PAP proposed by Verizon Maine should be adopted, subject to the modifications specified below, as an appropriate mechanism to ensure continued post-entry Section 271 compliance by Verizon.¹ Reaching this determination was difficult given Verizon's desire for expedited review and the complexities of the New York PAP. The Commission continues to be interested in the potential effectiveness of the New Jersey PAP and plans to collect data which could assist in any future review and modification of the PAP we adopt today. We reserve the right, to the extent of our legal authority, to

¹Commissioner Nugent dissents from the decision to adopt the New York PAP.

make any changes warranted by our review, including adoption of a PAP modeled on the New Jersey PAP.

The PAP is modeled on the New York plan to which Verizon is subject in New York, Massachusetts, Rhode Island, and Connecticut. The proposed PAP would establish a self-executing process under which affected competitors receive payments if Verizon fails to satisfy pre-determined performance standards on a sub-set of the carrier-to-carrier reporting metrics.

To ensure that our PAP meets its declared goals, we require Verizon to modify its proposal in certain respects to account for the specific circumstances of the Maine market. Accordingly, our determinations are subject to Verizon's satisfying the following conditions:

1. The PAP will incorporate the following language: If as of the date of this letter a CLEC has an approved interconnection agreement for the State of Maine which provides for performance penalties, the CLEC will be entitled to receive penalties under both the PAP and the interconnection agreement until the termination date of the agreement.
2. The effective date of the PAP is the first day of the month after the Commission files its comments with the FCC.
3. The PAP must require a first year audit at Verizon's expense and thereafter at the Commission's discretion upon its own initiative. Verizon will be responsible for the costs of any Commission-ordered audit.
4. The dollars at risk must be 39% of Verizon-Maine's net return based upon 2000 ARMIS data for Maine.
5. Verizon must meet the same flow-through targets in Maine as it does in New York, i.e. 95% for Achieved and 85% for Total. However, Verizon will have 12 months to reach these levels of flow-through before penalties will attach. Until that time, Verizon PAP penalties will be based upon the proposed flow-through rates of 90% for Achieved and 60% for Total.
6. The PAP will use the metrics described in Attachment B
7. Verizon will amend section II.C.1 of the PAP to provide that a –1 score in a given month will be subject to change depending upon the score for that measure for the previous two months, rather than the next two months, as originally proposed. Verizon will provide a report twice a year summarizing the prior six months' –1 scoring changes. This change will have the benefit of more immediate payments to companies affected by violations of the performance standards.

8. For estimating service parity of metrics in the PAP and for all sample sizes, Verizon will use a non-parametric, “distribution-free” method, which does not depend on the inherent shapes of the metrics’ statistical distributions.
9. The minimum sample size for determining parity for metrics will be at least one wholesale and one retail transaction per month and one wholesale transaction per month for benchmark measures.
10. Verizon should use the table in Attachment C for determining parity for benchmark metrics with small samples.
11. If Verizon continues to sponsor statistical parity methods based on the theory of hypothesis testing, we expect Verizon to work with the parties and staff to analyze parity tests with both Type I and Type II errors.
12. Verizon will provide data as described in Attachment D.

Conclusion

Conditioned on Verizon Maine’s assurance that it will satisfy the items specified above, the Commission expects to recommend that the Federal Communications Commission approve Verizon’s Section 271 application to offer interstate long distance telephone service to customers in Maine.

Sincerely,

Dennis L. Keshl
Administrative Director

cc: Service list